

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FRANCIS P. LANGANELLA, JR.,	:	
Plaintiff	:	Civil Action No. 1:11-cv-1101
	:	
v.	:	(Chief Judge Kane)
	:	
DON'S AND SON'S TOWING &	:	
BODY SHOP, <u>et al.</u>,	:	
Defendants	:	

MEMORANDUM ORDER

Currently pending before the Court is Magistrate Judge Blewitt's October 11, 2011 Report and Recommendation (Doc. No. 18) and Plaintiff's motion to file an amended complaint (Doc. No. 22). The Court will adopt the Report and Recommendation in full, deny Plaintiff's motion to file an amended complaint, and dismiss the complaint.

In Magistrate Judge Blewitt's October 11, 2011 Report and Recommendation he recommends that this Court: (1) grant the motion to dismiss filed by Defendants Terry Wealand and Harrisburg City Police Department; (2) deny the motion for default judgment; (3) dismiss with prejudice all claims against Defendants Pennsylvania Department of Transportation, Don's and Son's Towing & Body Shop, Don's and Son's Auto Parts, and City of Harrisburg; (4) dismiss with prejudice all claims for damages raised pursuant to the Pennsylvania Constitution; (5) dismiss any remaining state law claims for want of federal subject matter jurisdiction; and (6) deny Plaintiff's request for an extension of time to file an amended complaint. (Doc. No. 18.)

Plaintiff filed a motion for an extension of time to respond to the Report and Recommendation on October 24, 2011. (Doc. No. 19.) The Court granted the motion on October 25, 2011, ordering that objections to the Report and Recommendation would be due on

November 22, 2011. (Doc. No. 21.) On November 22, 2011, Plaintiff filed a motion to amend his complaint (Doc. No. 22) and a motion for extension of time to respond to the Report and Recommendation (Doc. No. 23). On November 29, 2011, the Court granted the motion for an extension of time and ordered that objections to the Report and Recommendation would be due on December 19, 2011. (Doc. No. 24.) On that same day, Defendants filed a brief in opposition to the motion to amend. (Doc. No. 25.) Plaintiff failed to file objections to the Report and Recommendation on or before December 19, 2011. Upon a de novo review of the Report and Recommendation, the Court agrees with the reasoning of the Report and Recommendation and concludes that dismissal is warranted as to each of Plaintiff's claims and that permitting amendment to those claims would be futile.

ACCORDINGLY, on this 19th day of January 2011, **IT IS HEREBY ORDERED**
THAT:

1. The Report and Recommendation (Doc. No. 18) is **ADOPTED**;
2. The motion to dismiss (Doc. No. 5) is **GRANTED** and all claims against Defendants Wealand and Harrisburg City Police Department are **DISMISSED WITH PREJUDICE**;
3. Plaintiff's request for default judgment (Doc. No. 13) **IS DENIED**;
4. Upon a screening of the complaint pursuant to 28 U.S.C. § 1915(e), the Court will **DISMISS WITH PREJUDICE** all claims against Defendants Pennsylvania Department of Transportation, Don's and Son's Towing & Body Shop, Don's and Son's Auto Parts, and City of Harrisburg as well as all claims for money damages arising under the Pennsylvania Constitution and any remaining state law claims;
5. Plaintiff's motion for an extension of time to file an amended complaint (Doc. No. 15) is **DENIED**;

6. Plaintiff's motion to file an amended complaint (Doc. No. 22) is **DENIED**;¹
7. The clerk of court is directed to close the case.

S/ Yvette Kane
Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania

¹ Although this motion could have been denied as moot, the Court finds that the amended complaint fails for the same reason as the complaint, and that permitting amendment would be futile.